

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

JAMES SPANN, Register No. 160792, )  
  )  
Plaintiff,                         )  
  )  
v.                                    )    No. 05-4067-CV-C-SOW  
  )  
CORRECTIONAL MEDICAL SERVICE, et al., )  
  )  
Defendants.                         )

**ORDER**

On July 31, 2006, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record<sup>1</sup>, including the exceptions filed by plaintiff on August 16, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's July 31, 2006 Report and Recommendation is adopted [123]. It is further

ORDERED that plaintiff's motion for default judgment is denied [107]. It is further

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<sup>1</sup>Court proceedings, if any, are recorded by electronic recording equipment and the tapes are available for review by the court and counsel.

ORDERED that plaintiff's motions for summary judgment are denied [101, 103, 116, 120]. It is further

ORDERED that defendants' motion for summary judgment is granted and plaintiff's claims are dismissed [83].

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: August 21, 2006